

--FURLOUGHS--

(SB 505 of the 2011 Legislative Session)

Frequently Asked Questions and Answers

***Last Updated: 10/31/11**

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General

1. What is furlough?

A furlough is the placement of an employee on leave and no salary of any kind is paid for the leave hours. (That means an employee will not receive shift differential or any other adjustment to pay on the furlough hours.)

2. Who is affected by the furlough?

The furlough applies to all branches of State government and includes the Nevada System of Higher Education, the Public Employees' Retirement System and all other entities of State government other than professional and occupational licensing boards.

The furlough does not apply to employees of the Department of Tourism and Cultural Affairs whose standard workweek is 32 hours.

Additionally, an exception may be granted for some positions within State government because of the need to provide appropriate services that are necessary for the protection of public health, safety and welfare.

3. When will the furlough be in effect?

Although a prior furlough program was in effect in FY 2010 and FY 2011, the current furlough program described below is in effect from July 1, 2011 through June 30, 2013.

4. Does this only impact general fund agencies?

The furlough applies to all employees as described in question number 2 no matter the funding source for the position including grant and fee based programs.

5. Can agency salary savings be used instead of furloughing employees?

No. Senate Bill 505 requires each employee to be furloughed except for employees of the Department of Tourism and Cultural Affairs who work 32 hrs per week or an employee who has been approved for exception by the Board of Examiners.

6. How much unpaid furlough leave must be taken?

A full-time employee is required to take 48 hours in each fiscal year unless his/her agency receives an exception from the Board of Examiners.

If the employee is less than full-time, the employee must take a number of hours of unpaid furlough leave each fiscal year which is equal to the average number of hours worked per working day multiplied by 6.

Employees who are normally exempt from receiving overtime may take unpaid furlough leave in less than 8 hour increments, but for the week of the furlough the normally exempt employee is paid on a hourly basis and must report partial day absences.

Regulation limits the number of furlough leave taken in one week. Additionally, each agency may develop policies that specify the smallest unit of time in which furloughs may be taken, e.g., in not less than 2-hour increments.

7. What is a new hire's furlough requirement?

Each employee is subject to furlough no matter when the employee is hired during the 2-year period. The total number of hours of furlough leave required to be taken in fiscal year by an employee who is initially appointed to state service after the commencement of the fiscal year is:

For a full-time employee, the equivalent of four (4) hours of furlough leave for each full month remaining in the fiscal year.

For a part-time employee, the equivalent of the portion of four (4) hours of furlough leave for each month remaining in the fiscal year that is proportional to the average number of hours worked.

If such an employee is appointed on a day other than the first of a month, in which the employee is appointed that month is not included in the calculation.

8. Can more than 48 hours of furlough leave be used in a fiscal year?

No. Furlough leave is specifically coded in NEATS as a special kind of leave without pay. Any other leave without pay that an employee takes must be approved by the appointing authority and entered in NEATS using the appropriate code. (Part-time employees must take an amount of furlough leave that is equivalent proportionally to the requirement for a full-time employee.)

9. Will an employee still be required to take 48 hours of furlough leave if the State's budget improves?

Yes unless a Special Session of the Legislature is called to amend the statute requiring the furlough leave.

10. Will there be a statewide policy or will each agency be able to determine how to implement or accomplish the furlough?

Agencies will have some discretion on how to implement the furlough and address business needs, such as approving an employee's furlough schedule. Other aspects of the furlough will not be discretionary. This is to ensure equity for all employees, such as the impact of furloughs on time taken due to a covered condition under the Family and Medical Leave Act.

Hours and Compensation

11. Will there be a new payroll code to report furlough hours on an employee's timesheet?

No. The same timesheet code, UFRLO, used in the past two fiscal years will be used for the next two fiscal years. Employees use this code when recording furlough leave on their timesheet. For agencies using the NEATS Leave/Overtime pre-approval system, UFRLO is used to request furlough leave time.

12. Can an employee work overtime in a week in which the employee takes furlough leave?

An employee shall not be required or allowed to work overtime in the same work week as furlough leave unless pre-approval has been granted by the Division Administrator, Human Resource Management and the Director of the Department of Administration.

In order to avoid accumulating overtime, an employee with a variable work week agreement may flex his hours by reducing the furlough leave hours taken and recording the additional work hours.

For example: a full-time employee normally works Monday through Friday. On Monday, he takes off 8 hours as furlough leave. In that same work week, the employee is notified in advance that he will need to work 6 hours on Saturday. Two hours of furlough leave would be recorded on Monday and 6 hours of straight time would be recorded on Saturday. The timesheet comments would reflect the change in the hours worked.

13. Can an employee use Paid Added Regular Time (PADRT) in the same week as the furlough?

Not unless an exception is approved in advance by the Division Administrator, Human Resource Management and the Director of the Department of Administration. Additionally, Paid Added Regular Time (PADRT) may be requested only for a part-time employee, whose total hours in a pay week may not exceed 40 hours, including regular time, furlough hours and Paid Added Regular Time.

14. Does furlough leave change the exempt status of salaried employees?

Yes, temporarily. During the week that any furlough leave is taken employees who are normally exempt from receiving overtime become hourly employees and subject to the Fair Labor Standards Act. Additionally, partial day absences for leave (annual, sick, family sick, etc.) must be recorded on the employee's timesheet if taken during the week in which furlough leave is recorded.

15. Can a normally exempt full-time employee still work more than 32 hours in the week they take the furlough leave?

No. The intent of the legislation is to reduce budget liability due to salaries.

16. Since exempt employees are paid on an hourly basis during the week of the furlough, should these employees sign a variable work week agreement to only allow overtime after 40 hours in a work week?

A normally exempt employee may sign a variable workweek agreement (TS-78) if they wish to work more than 8 hours in one day but not accrue an overtime liability in the week furlough leave is taken.

17. Can an employee volunteer to take more than 48 hours of furlough leave?

No.

18. Can an employee volunteer to take more than 48 hours of furlough leave thereby allowing someone else not to take furlough leave?

No.

19. Can an employee take all of his or her furlough leave at one time?

No. Employees are limited to taking no more than 12 hours of unpaid furlough leave in a work week even if the employee would have otherwise been required to be in a leave without pay status.

20. What is reported as an employee's pay for requests on garnishments?

The hourly rate of the employee without regard to the impact of the furlough will be reported.

21. What impact will furloughs have if an employee currently has creditor garnishments or student loans being taken out of his pay?

Creditor garnishments and student loans are calculated as a percentage of disposable income. A reduction in pay will reduce the amount of the disposable income therefore lowering the deduction. This will lengthen the repayment of the debt.

22. What impact will furloughs have if an employee currently has child support or spousal support being taken out of his pay?

A furlough would not relieve the State from its obligation to deduct any fixed amounts ordered by a court. The employee is responsible for any amount that is owed and not available for deduction from the employee's paycheck.

23. What is reported as an employee's pay for requests on child support?

The actual earned wages of the employee will be reported.

24. If an employee's lender requests annual salary information, will the value of the furlough leave reduce the reported annual salary?

Yes, annual salary information requests will reflect all furlough leave that has been taken year-to-date.

25. If an employee has payroll deductions for the United Way or CHAPS, can the employee stop those deductions?

Yes. Cancellations of voluntary deductions can be sent through the employee's pay clerk to Central Payroll or directly to Central Payroll.

26. If an employee has payroll deductions for employee association or union dues, can the employee stop the deduction at anytime?

No. In accordance with NAC 281.260, employee association or union dues can only be cancelled in the 2-week period preceding the anniversary date of the enrollment.

27. If an employee's salary has been frozen due to NAC 284.290, will the employee be required to take furlough leave?

Yes.

28. Can an employee take a pay cut of instead of taking the furlough leave?

Yes if an exception is approved by the Board of Examiners. Employees in positions that receive an exception from the furlough will be required to have their pay reduced by 2.3%. This is in addition to the 2.5% decrease in pay required by employees who are furloughing. The additional decrease in pay affects not only the employee's rate of pay but also

his/her retirement, rate of pay for overtime, and other pay types that are a percentage of the employee's hourly rate.

Leave and Attendance

29. Will employees accrue furlough leave?

No. Furlough leave is not accrued like annual leave or sick leave. A full-time employee is required to take 48 hours in each fiscal year unless his/her agency receives an exception from the Board of Examiners. If the employee is less than full-time, the employee must take a number of hours of unpaid furlough leave each fiscal year which is equal to the average number of hours worked per working day multiplied by 6.

30. How does an employee request to take required furlough leave?

Furlough leave must be approved in advance using the department's leave request procedures in the same manner as any other leave.

31. Can an appointing authority require an employee to take furlough leave on a specific date?

Yes. Management must ensure appropriate staffing levels and ensure that furloughs are taken as efficiently as possible.

32. Can an employee take his/her furlough leave anytime the employee wants?

No. Furlough leave must be scheduled and approved in the same manner as other leave.

33. Can a department require employees take the furlough leave in no less than a specified number of hours, e.g., not less than four hours?

Yes. Management must ensure appropriate staffing levels and ensure that furloughs are taken as efficiently as possible.

34. Will an employee's annual and sick leave accrual rates be affected by the furlough?

No.

35. Will an employee be eligible to receive a payoff on excess annual leave at the end of the calendar year if the employee wasn't able to use the leave due to the furlough?

NRS 284.350 limits employees from carrying more than 240.00 hours of annual leave from one calendar year to the next. Employees should make every effort to reduce their excess annual leave and use the appropriate amount of furlough leave to prevent a possible forfeiture of annual leave hours. An employee may request payment for excess annual leave in accordance with the procedures set forth in NRS 284.350.

36. How will furlough leave affect the 1,250 hours worked eligibility requirement for FMLA?

Furlough leave will be considered time worked for the purposes of calculating eligibility for FMLA.

37. How will furlough impact an employee who is on Family and Medical Leave Act (FMLA) leave for a qualifying event? (Will it count against the employee's entitlement?)

Furlough leave will not count against the employee's entitlement for FMLA.

38. Will the event coding be different for an employee who is on FMLA and is required to take furlough leave?

If unpaid furlough leave is taken during the time an employee is on FMLA, the timesheet is coded as furlough leave, UFRLO, and the time will not

count against the employee's FMLA entitlement. An employee is limited to 48 hours of furlough leave per year. Under no circumstances will an exception be granted for more than 12 hours of unpaid furlough leave in a work week.

39. May an employee substitute eight furlough leave hours for a paid holiday?

No. Holiday pay is provided in statute and furlough leave cannot be recorded on a paid State holiday.

40. May an employee request a furlough day before or after a paid State holiday or in conjunction with paid leave?

Yes as long as the furlough leave is requested and approved in advance.

41. May an employee substitute paid leave (annual, sick, or compensatory time) for furlough leave?

No. Furlough leave must be unpaid time off.

42. May an employee work when scheduled off due to the furlough?

No work of any kind may be performed during the time to be considered furlough. This prohibition includes working at home, monitoring emails and telephone messages, and responding to inquiries from work.

43. May employees use furlough leave on a scheduled day off due to a compressed workweek schedule? For example: the employee normally works a 10-hour shift?

No. Furlough leave cannot be taken on a regularly scheduled day off otherwise there is no salary savings.

44. Will employees on 10-hour shifts be able to use furlough leave in 10-hour increments?

With the approval of the employee's supervisor the employee can take 10-hours of furlough leave in one work week. Employees are limited to no more than 12-hours in a work week.

45. Can an employee who would have qualified for paid military leave, pursuant to NRS 281.145, elect to use furlough leave instead?

The employee may elect to use furlough leave instead of receiving paid military leave.

46. Should an employee's State pay be adjusted to reflect the impact of the furlough when determining eligibility for Military Differential Pay pursuant to NAC 284.588?

Yes. Use the ML-4 form located on the Department of Personnel's website to determine if the employee is eligible for the differential pay.

47. Should an employee on Military Leave Without Pay (UMLWP) participate in the furlough?

Yes. This will ensure the employee receives the appropriate annual leave and sick leave accruals that other furloughed employees receive.

48. What is the impact on an employee who is using catastrophic leave?

Similar to other employees, an employee on catastrophic leave must take the furlough leave.

49. What is the impact on an employee who has been placed on extended administrative leave?

Each employee is subject to the furlough. The employee may take the furlough leave either during the time they would have been on administrative leave or after they return.

50. If an employee has been selected for jury duty, can he substitute the use of civic leave with a furlough leave day?

Yes.

Impact of Certain Employment Actions/Status

51. How will employees receiving a promotion be impacted by the furlough?

Each employee is subject to the furlough. The furlough is not based upon the position the employee is in unless the movement increases or reduces the employee's hours, e.g., part-time to full-time.

52. How will employees transferring from one position to another be impacted by the furlough?

Each employee is subject to the furlough. The furlough is not based upon the position the employee is in unless the movement increases or reduces the employee's hours, e.g., part-time to full-time.

53. How are employees who are in Seasonal, Intermittent, Temporary, or Emergency positions impacted by the furlough?

Each employee is subject to the furlough no matter the type of appointment.

54. How much furlough leave does a part-time employee have to take?

Unless an exception is approved, an employee who is less than full-time must take a number of hours of unpaid furlough leave in portions equal to the average number of hours worked per working day multiplied by 6.

55. What if an employee terminates before using the required furlough leave?

If the employee leaves State service prior taking the proportional amount of furlough leave required, the position must be left vacant a sufficient period of time to reduce the salary liability. Each agency should consult with the Budget Division prior to filling a vacancy to ensure the appropriate amount of salary savings has been achieved.

56. Will an employee's pay progression date be impacted by the furlough?

No.

57. Will the furlough impact an employee's eligibility for longevity pay?

No, although Assembly Bill 560 temporarily suspends the payment of longevity for the same period of time as the furlough is in effect. The furlough does not affect the employee's continuous service date so once AB 560 expires, longevity will resume.

58. Will the furlough extend an employee's probationary period?

No.

59. Will the furlough impact an employee's seniority for the order of layoff?

No. Furlough leave is treated as if the employee were in paid status.

60. How will employees serving in an acting capacity be impacted by furloughs?

Each employee is subject to the furlough no matter the type of appointment.

61. Will new hires be affected by the furlough?

Each employee is subject to the furlough no matter when the employee is hired during the 2-year period unless an exception is pre-approved by the Board of Examiners. The employee will only be responsible for the proportional amount of time remaining in the fiscal year starting with the first full month of employment. For example: A full-time employee begins work on 8/15/11. The employee would be required to furlough 40 hours over the remainder of the fiscal year. Additionally, the employee would be required to furlough 48 hours in FY12.

62. If an employee leaves State service will the employee be reimbursed for any furlough hours taken over what would have been proportionally required for that point in the fiscal year?

No. If the employee has taken more time off than would have been proportionally required, the employee will not be reimbursed as the employee did not perform work during those hours so they are not compensable.

63. Will employees be required to take a furlough day if their last day of employment is before the last day of the month?

An appointing authority may require an employee who is leaving State service prior to the end of the month to fulfill his/her furlough requirement. If it is not in the best interest of the State for the employee to furlough, e.g., due to staffing issues or other business necessity, the department will still be responsible for ensuring the appropriate salary savings is achieved prior to filling the position.

64. Can an employee's classification be changed as a result of being furloughed?

No.

65. Can an employee's shift be changed as a result of being furloughed?

Ultimately management must ensure appropriate staffing levels and ensure that furloughs are taken as efficiently as possible. This may result in employee's shifts changing, at least temporarily, in order to ensure appropriate coverage. Each agency will develop policies to ensure that furloughs are taken in a manner that supports the continued operation of the agency.

Health Benefits/PEBP

66. Will the furlough (reduction in hours) be considered a qualifying life event in which an employee can stop or change his/her health insurance and life insurance plans?

The furlough leave will not have an impact on employee health coverage. Therefore, changes to employee's health coverage would not be allowed based solely on the furlough leave event.

67. Can employees stop or change contributions to their health care or dependent care flexible spending accounts as a result of the furlough?

This question has two answers as follows:

Flexible Spending Account for Health Care: Employees would not be allowed to modify health coverage based on the mandatory furlough. Under SB 505, the furlough leave is to be considered a work day (or portion of a work day) for all purposes except salary. Therefore, it will not impact employee eligibility under PEBP.

Flexible Spending Account for Dependent Care: Employees enrolled in the Dependent Care FSA **would be allowed** to reduce their Dependent Care election. The Qualifying Event would be that the employee's need for Dependent Care during the furlough leave is no longer required.

68. Will a part-time employee lose his/her health coverage as a result of the furlough leave now reducing his/her hours below 80 hrs in a month?

Under SB 505, the furlough leave is to be considered a work day (or portion of a work day) for all purposes except salary. If an employee has a reduction in hours (below 80), as a result of the furlough, the employee's health coverage would continue as usual.

69. Can employees stop or change contributions to their health savings account as a result of furlough?

Contributions to health savings accounts may be modified or suspended at any time.

70. How can I find out more information about my health benefits?

The Public Employees' Benefits Program can be contacted by calling (775) 684-7000 or (800) 326-5496 and their website is located at: <http://pebp.state.nv.us/>.

Retirement

71. Will the furlough impact an employee's retirement contribution and payable benefits?

No, furlough leave will not change the required contributions to the Retirement System and will not impact the employee's retirement benefits. Employees will receive service credit for the unpaid furlough time in the same manner as worked time. Salary information will be reported to the Retirement System for unpaid furlough time in the same manner as salary is reported for worked time so that an employee's average compensation for retirement benefit purposes will not be impacted.

72. Specifically, how does furlough impact an employee's retirement contribution?

The furlough bill requires all retirement contributions be made to the Retirement System by the employer based on the compensation that would have been paid absent the unpaid furlough leave.

The furlough bill allows the employer to collect the employee's share of the retirement contribution under the employee/employer retirement plan from the employee for the unpaid furlough time. The employee's share of the retirement contribution will be collected in the same manner as all other employee retirement contributions, as an after-tax deduction from the employee's salary.

73. Are the retirement benefits accrued on a furlough day taxable?

Retirement benefits accrued on furlough days will be the same as all other retirement benefits accrued by the employee.

Other

74. Does an employee have grievance rights regarding the furlough?

The requirement to take furlough leave cannot be grieved but how and when an employee is approved to take the furlough leave can be grieved. In order to avoid grievances, each agency will develop a written policy regarding how that agency will implement the furlough and communicate that policy to all agency employees.

75. What happens if an employee does not take the required furlough leave?

With few exceptions, each employee must take furlough leave. It is up to managers and supervisors to ensure that their employees are in compliance. If an employee refuses to take the furlough leave, the employee can be required to take a specific time off and be disciplined for failure to follow direction.

76. Who is responsible for ensuring that furloughs are taken as required?

Employees must monitor their time to ensure that they have taken the appropriate amount of furlough leave. Employees who record their time in NEATS are able to view the number of hours taken. Additionally, agency management is responsible for ensuring that their employees are taking the appropriate amount of time and monitoring the budgetary savings. Reports are currently available in the HR Data Warehouse to management with the appropriate security access.

77. What type of reports will be available for agency management?

Furlough analysis reports are currently available in the HR Data Warehouse to track individual furlough hours and the corresponding salary savings. Recently a query was added which displays all furlough hours taken by employees who were assigned to that agency in the query period. This includes all furlough hours for those employees who transfer in or out of the agency in that timeframe.

78. What is the impact of Workers' Compensation benefits related to the furlough?

The employee must take the required number of furlough leave hours when absent for an extended period of time due to a work-related injury. The benefit amount received for the furlough leave hours is payable to the employee.

79. Will an employee be eligible for unemployment benefits due to the furlough?

Eligibility for unemployment compensation is determined by the Department of Employment, Training, and Rehabilitation.

80. Will the furlough hours be reflected as a running total in NEATS?

Yes. Employees who record their time in NEATS are able to review unpaid furlough leave time taken. This information is displayed as a total by fiscal year for the FY12 and FY13 biennium. Additionally on an employee's NEATS Home Page under the Personnel Tasks listing, an employee may view the specific days in which unpaid furlough leave was taken by clicking on the "View My Furlough Information" link.

81. Will the furlough have any impact on the amount that can be contributed to a deferred compensation account?

No, but if an employee needs to reduce the amounts of his/her automatic contribution to a deferred compensation account, the employee should contact his/her agency's pay clerk or Central Payroll.